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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 60469-253; PA000.05210-US
<p>CERTIFICATE OF FACSIMILE I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on _____ Signature _____ Typed or printed name _____ Theresa M. Palmateer</p>		Application Number 10/565,382 Filed 01/20/2006 First Named Inventor Miller, Robin Mihekun Art Unit 3654 Examiner Pico, Eric E.
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>		
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p> _____ Signature <u>David J. Gaskey</u> _____ Typed or printed name</p> <p><u>(248) 988-8360</u> _____ Telephone number</p> <p><u>10/29/07</u> _____ Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Miller, Robin Mihekun
Serial Number: 10/565,382
Filed: 01/20/2006
Group Art Unit: 3654
Examiner: Pico, Eric E.
Title: ELEVATOR ASSEMBLY WITH EXTENDABLE SILL

REQUEST FOR PRE-APPEAL BRIEF REVIEW

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests pre-appeal brief review of the final rejections in this case because there is no *prima facie* case of obviousness against any of Applicant's claims.

**The rejection under 35 U.S.C. §103 based upon
the proposed combination of the Kato, et al.
and West references must be withdrawn**

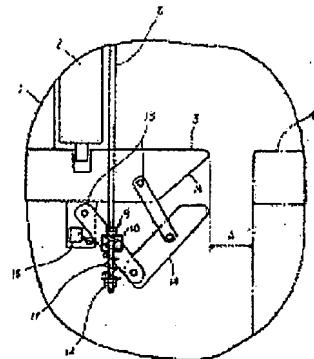
The Examiner rejects Applicant's claims 1, 4, 6 and 10 based upon the proposed combination of the *Kato, et al.* and *West* references. That combination cannot be made. The Examiner proposes to take a dock leveler 13 from the *West* reference and incorporate that into the elevator arrangement of the *Kato, et al.* reference. The combination cannot be made because it does not provide a workable result. Moreover, it interferes with the ability of the *Kato, et al.* reference to achieve its intended result.

In order for the elevator car of the *Kato, et al.* reference to be able to move within a hoistway or elevator shaft, a clearance must be maintained between the elevator car structure and

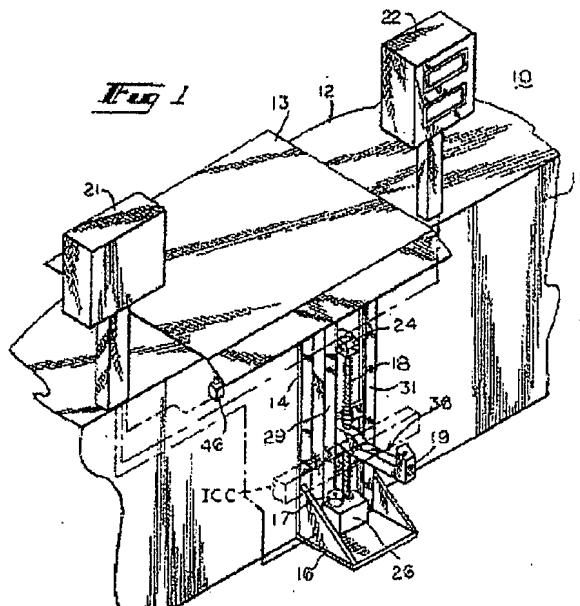
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the interior wall of the hoistway. Figure 2 of the *Kato, et al.* reference, reproduced here, shows such a clearance at A. The *Kato, et al.* reference retracts the piece 14, for example, to facilitate elevator car movement by providing the appropriate gap size A.

Fig. 2



The *West* reference includes a truck restraining member 19 that is vertically moveable along a vertical surface of the loading dock 10 shown below.



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As can be appreciated from this figure, the restraining member 19 always extends outwardly away from the vertical face 11 of the dock 10. In order for the restraining member 19 to be able to engage the landing structure of the elevator car of the *Kato, et al.* reference, the restraining member 19 has to extend into the interior of the elevator shaft at all times. The presence of the restraining member 19 within the elevator shaft will prevent the elevator car from moving vertically between various levels of a building. At a minimum, the restraining member 19 will eliminate the necessary amount of clearance (e.g., the gap A) within the elevator system of the *Kato, et al.* reference. In other words the proposed modification will interfere with the intended operation of the arrangement in the *Kato, et al.* reference. Therefore, the proposed combination cannot be made according to MPEP 2143.01(V).

Additionally, the *West* reference is non-analogous art and would not be considered by a person of ordinary skill in the elevator art as providing any meaningful contribution to the *Kato, et al.* arrangement. The restraining member 19 of the *West* reference is intended to hook onto an ICC bar of a truck that backs up against the dock 10. One skilled in the art of elevators considering how to provide an extendable sill on an elevator car would not look to the *West* reference for guidance. The completely different purpose of the restraining member 19 of the *West* reference renders it non-analogous to the elevator art. In other words, the Examiner has not established a sufficient reason why one skilled in the art would look to a truck restraining member such as that in the *West* reference and conclude that it would somehow be useful in an elevator system. As explained above, the arrangement of the *West* reference is not workable in an elevator environment because it will either completely prevent desired vertical movement of the elevator car or at least will interfere with the necessary amount of clearance between an

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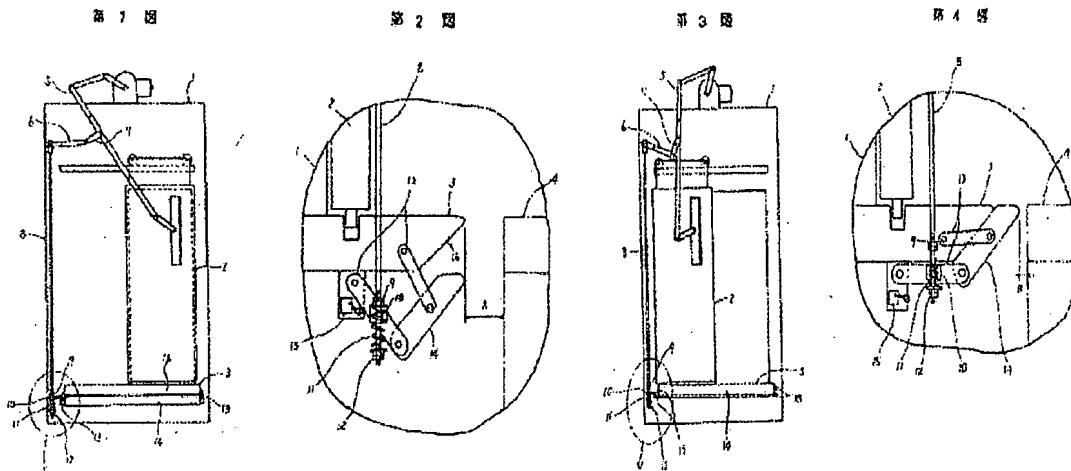
elevator car and the vertical surfaces that the elevator car passes as it moves vertically within an elevator shaft.

There is no *prima facie* case of obviousness.

**The rejection of claims 2, 11, 12, 14, 17 and 20-24
based upon the proposed combination of the Kato, et al.,
West and Kaneko references must be withdrawn**

The proposed addition of the *Kaneko* reference does not remedy the defects in the proposed base combination of the *Kato, et al.* and *West* references. The base combination cannot be made and the addition of the *Kaneko* reference cannot be made as a result.

Additionally, the proposed addition of the teachings from the *Kaneko* reference constitutes a modification of the *Kato, et al.* arrangement that changes the principle of operation of that reference. The *Kato, et al.* reference relies upon elevator door movement for moving the auxiliary sill 14 into a position where it would approach a landing structure. The movement of the door moving mechanism (e.g., elements 5, 6 and 7) from the door closed position in *Kato, et al.*'s Figure 1 to the door open position of Figure 3 causes the movement of the link 8 and the auxiliary sill 14 from the position of Figure 2 into the position of Figure 4 where it approaches a landing structure.

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The Examiner's proposed addition of the *Kaneko* reference would change this principle of operation contrary to MPEP 2143.01(VI). The Examiner proposes to take teachings from the *Kaneko* reference to modify the *Kato, et al.* reference so that the auxiliary sill 14 would move into a position where it could be locked to landing structure *prior to* opening the elevator door of the *Kato, et al.* reference. Such a modification would render the *Kato, et al.* arrangement incapable of operating as it is intended to operate. Therefore, the modification is not possible and there is no *prima facie* case of obviousness.

CONCLUSION

The Examiner's proposed combinations cannot be made and there is no *prima facie* case of obviousness. The rejections under 35 U.S.C. §103 must be withdrawn.

Dated: October 29, 2007

Respectfully submitted,

CARLSON, GASKEY & OLDS

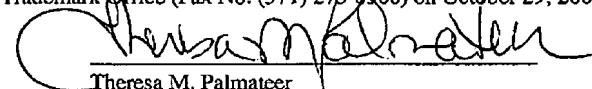
By:

David J. Gaskey, Reg. No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

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CERTIFICATE OF FACSIMILE

I hereby certify that this Request for Pre-Appeal Brief Review, relative to Application Serial No. 10,565,382 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on October 29, 2007.



Theresa M. Palmateer

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